

MINUTES
YORK COUNTY PLANNING COMMISSION
Work Session
York Hall, 301 Main Street
August 23, 2006

MEMBERS
Christopher A. Abel
Nicholas F. Barba
Anne C. H. Conner
John R. Davis
Alexander T. Hamilton
Alfred E. Ptasznik, Jr.
John W. Staton

CALL TO ORDER

Chair Alfred E. Ptasznik, Jr. called the work session to order at 6:30 PM. He noted the purpose of the work session was to continue discussion of Application No. ZM-104-06. A work session was held on August 2nd, 2006 following a public hearing on July 12th, at which 20 property owners spoke.

ROLL CALL

The roll was called and all members were present. Staff members present were J. Mark Carter, James E. Barnett, Jr., Timothy C. Cross, Amy Parker, and Earl Anderson.

Timothy C. Cross, AICP, Principal Planner, referred to the staff report dated August 15, 2006 and indicated the areas for further discussion would include the Carl A. Barrs property on Route 17 and the Seaford/Bay Tree Beach/York Point areas. Other areas could be discussed at the discretion of the Commission or staff, as needed.

Map Area 26

Property Owner: Carl A. Barrs

Current Zoning: IL – Limited Industrial

Proposed Zoning: GB – General Business

Discussion: Mr. Cross explained that the proposal to rezone properties along the west side of Route 17 from IL to GB is consistent with the GB character of the Route 17 corridor and would prevent various uses that are permitted by right in IL-zoned districts. He noted that all of the properties owned by Mr. Barrs that are proposed for rezoning to GB are undeveloped or have nonconforming residential units on them. Mr. Barrs had expressed concern at the public hearing about encroachment on his existing contracting and stone yard businesses, but, Mr. Cross stated, the parcels proposed for rezoning are not part of those operations. Mr. Ptasznik suggested rezoning from IL to GB to a depth of approximately 250 feet from Route 17, leaving the remainder of the Barrs property zoned IL, which would establish a uniform depth of GB zoning between the railroad tracks and Greene Drive. This would allow expansion of the existing businesses, if needed, while preventing inappropriate development fronting on Route 17. There was some discussion about the parcels to the north of the railroad tracks and whether they also should be allowed GB-zoned frontage, Mr. Carter noted that there is an approved site plan for one of those properties for a Line-

X spray-on pickup truck bed-liner operation, which would become an approved non-conforming use if the property is rezoned as proposed. Mr. Cross added that he had spoken with the owner of that property, who indicated that he was not opposed to the proposed rezoning as long as he was permitted to develop the property in accordance with his approved site plan.

Consensus: *Rezone the Barrs property from IL to GB to a depth of approximately 250 feet from Route 17.*

Map Area 23 and Map Area 23B

Property Owners: Various

Current Zoning: RR – Rural Residential

Proposed Zoning: RC – Resource Conservation

Discussion: Using display maps, Mr. Cross identified the seventeen parcels in the Baytree Beach, York Point, and Seaford areas that could be affected by the proposed rezoning from RR to RC. He stated that most of the properties proposed for rezoning would not be affected because they do not have at least two acres of developable land. Mr. Cross explained that any land that is less than four feet (4') above mean sea level cannot be included in the calculation of developable land for the purpose of computing the allowable development density or meeting minimum lot size requirements. In addition, he noted that most of the area is within the Chesapeake Bay Resource Protection Area (RPA), which limits or precludes opportunities for subdivision. In response to a question from Mr. Barba, Mr. Cross stated that after the public hearing the Planning Division mailed every Seaford-area owner of property proposed for rezoning from RR to RC a letter explaining how they would be affected by the proposed rezoning.

Ms. Conner stated as a long-time Seaford resident that the historic nature of land use in Seaford appears to be different from Baytree Beach Road and York Point, where most of the lots are too small to be subdivided, because of the long-term family ownership of property in Seaford and the history of passing on the land or portions thereof to relatives. For those reasons, she was reluctant to deny property owners the opportunity to subdivide their land for the purpose of passing it on to their children, and she recommended leaving the properties in Seaford that can be subdivided zoned RR and moving forward with the recommendation to rezone properties in Baytree Beach and York Point to RC because they would not be affected by rezoning. Mr. Ptasznik wondered if there was any reason to rezone any of the Seaford parcels, in that case, if parcels that can be subdivided are to be excluded. Mr. Barba believed the spirit of the Comprehensive Plan should be respected, with careful consideration given to rezoning to RC all of the properties recommended by the Plan in the absence of overriding reasons not to. Mr. Abel requested the County Attorney to comment on the legality of rezoning selected properties in an area while excluding others. Mr. Barnett noted a case in Virginia Beach in which the city proposed downzoning a large portion of a primarily agricultural area. The judge in that case ruled that the downzoning was not the result of a jurisdiction-wide review of the Comprehensive Plan but rather was done in a checkerboard fashion. Mr. Barnett said the downzoning in that case was not the result of a comprehensive review of the entire city's territory. He did not recommend against downzoning or believe that the County would necessarily lose its case if challenged, but the Commission should be aware that a piecemeal zoning could be found invalid. In addition, Mr. Barnett noted that courts generally do not like downzoning unless it is warranted by a change in circumstances.

Mr. Carter commented that the Comprehensive Plan is supposed to be a general document, and believed that rezoning the properties in the Baytree Beach and York Point areas and the parcels on Baytree Beach Road and York Point Road, areas that are surrounded by RC-zoned property, would preserve the intent of the Comprehensive Plan to show the whole peninsula as RC, while having little or no effect on property owners' ability to build on or subdivide their land. In fact, he noted,

rezoning from RR to RC may give these property owners an advantage by increasing their lot width deficiency, thereby further reducing the minimum side yard setback requirement in many cases. He could see no disadvantages to the property owners in those areas by zoning to RC. The property is all within an RPA area.

Consensus: Rezone to RC the properties in Baytree Beach, York Point, and on Baytree Beach Road and York Point Road, with properties west of those areas to remain RR.

Ms. Conner inquired about comments received from Mr. Dick Ashe regarding waterfront property he owns in Seaford. Mr. Cross said Mr. Ashe had opposed rezoning his property located along Back Creek from WCI to RR, which was discussed at the previous work session and a consensus reached to uphold the staff recommendation to rezone the property from WCI to RR. Mr. Cross added that all of the property in question is below the 4-foot contour for developable land.

Mr. Cross said Dr. Ramsay Knox had recently contacted the staff about a parcel that he owns on Route 17 that backs up to Carraway Terrace, a portion of which is proposed to be rezoned from GB to R20. He stated that Dr. Knox had requested that the line of demarcation between the GB and R20 zoning be moved farther to the west, which would increase the amount of R20 acreage and allow for the creation of new residential lots on both sides of Carraway Terrace. After discussion, the Commission agreed that his request was reasonable and two large lots could be created without causing any problem to other property owners in the area.

Mr. Ptaszink said the Planning Commission would hold another public hearing for the application in October to give others who want to speak the opportunity to do so. Mr. Carter said the Board of Supervisors would likely conduct a public hearing on the application on October 17th.

Chair Ptasznik called adjournment at 7:26 PM.

ADJOURN

The Chair called adjournment at 7:26 PM.

SUBMITTED:

Phyllis P. Liscum, Secretary

APPROVED:

Alfred E. Ptasznik, Jr., Chair

DATE:
